



1950.

File No. Sales Tax II  
50 (R)

Legal Deptt.

B BRANCH

Subject:— Rules under the  
Bombay Sale Act 1946

File No.

Sales Tax II/50  
(R).

176-B

**Legal Department.**

In place of the draft at page 75 ante, a revised draft is sent herewith.

2. Under section 9 of the Bombay Sales Tax Act, 1946, the list of the names and addresses of registered dealers is to be published together with a description of the goods in accordance with their certificates of registration. It would not therefore be possible to delete altogether columns 6 to 8 in the form given in rule 16 as proposed at page 75 ante. The goods covered by the dealer's certificate will have to be included in the form, although the details required under existing columns 6, 7 and 8 may not be given. Column 6 has therefore been retained in the revised draft in a modified form.

J.R.Dhurandhar,  
13/3.

**Additional Secretary to Government.**

U.R. to F.B., No. 3536, dated the 14th March 1950.

SNY/21.6.

### Local Departments.

The intention appears to be that local authorities should be excluded from the category of dealers for the purposes of the Bombay Sales Tax Act, 1946; but at the same time their commercial departments should be required to be registered as dealers under the Act. To achieve this object, it is proposed to make a rule under section 6(3), Rule 1(iv), exempting for the purposes of determining the taxable turnover, the sales and supplies by such statutory bodies as may be notified by Government and to such extent as may be specified in the notification.

8. The proposed amendment of the rules is not legally feasible and would not be sufficient to achieve the object in view.

9. The rules to be made under section 29(2)(d) read with section 6(3), Rule 1(V), are subject to the condition of previous publication. Under the amendment to the rules suggested by the Department the statutory bodies which will enjoy the proposed exemption and the extent to which such exemption is to be granted are matters to be specified later, from time to time, by a notification of the State Government. Such matters cannot be left to be determined by a subsequent notification. The rule itself should specify the bodies proposed to be exempted and the extent to which they are to be exempted. Moreover, even if the matters are specified in the rule itself, the object of requiring only the commercial departments of the local authorities to be registered as dealers will not be achieved. The effect of the rule will be to exclude certain sales from the gross turnover for determining the taxable turnover. But the registration of a person or corporate body as a dealer depends on his

gross turnover. If the gross turnover exceeds the limits specified in section 5 registration as a dealer is compulsory and the provisions relating to submission of returns and other provisions of the Act become applicable to such dealer.

4. To achieve the object in view, therefore, an amendment of the Act is necessary and expedient.

J.R.Dharambhar.

15/3.

Additional Secretary to Government.

U.B. to F.D., No. 2671, dated the 16th March 1950.

SW/21.6.

Legal Department.

Rule 38 which is proposed to be amended in this file is related to the proviso to section 6 of the Bombay Sales Tax Act, 1946. The proviso makes provision for the levy of sales tax at a reduced rate on goods despatched to places outside the State. The constitutional position regarding the adaptation of the said provision in relation to article 286 of the Constitution of India has not yet been finalised. Pending decision in that behalf, the consideration of the proposed amendment may be postponed for the present.

J.N.Dhurandhar.

13/4.

Additional Secretary to Government.

U.O. to F.D., No. 5040, dated the 19th April 1950.

BM/21.6.

Legal Department.

The reason for the retention of column 6 in the Form given in rule 16 of the revised draft have been explained in this Department U.R. No. 3536, dated 14th March 1950 at page 83 ante. As stated therein, it would not be possible to delete this column altogether as under section 9 of the Act the list of the names and addresses of registered dealers is required to be published together with a description of the goods in accordance with their certificates of registration. Till section 9 of the Act is, therefore, amended it would not be legally feasible to delete column 6.

J.R. Dhurandhar.  
29/6.

**Additional Secretary to Government.**

U.R. to F.D.No. 9015, dated the 30th June 1950.

BHT/21.6.

Legal Department.

A revised draft notification is sent herewith.

Draft rule 6(3) and amendment to rule 7A- The new provision proposed may be inserted as rule 6A. The intention appears to be that the register in Form IIIA or Form IIIB may be maintained by a Sales Tax Officer for each different localities within his jurisdiction as he may determine. The revised draft provides accordingly.

Draft rule 27A and Form XIV A- The reasons for inserting new rule 27A as given at page 5 ante are to ascertain whether a dealer is liable for registration and if so, whether he is liable to pay tax during any previous year period. Even though the Collector of Sales Tax calls these two things as two issues under section 11(5) of the Act, in fact they are one as will appear from the provisions of sub-section (1) of section 8 which provides that no dealer, shall, being liable to pay tax under section 5 of the Act carry on business as a dealer unless he has been registered and possesses a registration certificate. Existing rule 28 read with Form XIV provides for the issue of a notice to show cause why a dealer names therein should not be —

- (1) assessed for the period specified therein, and
- (2) penalized for not applying for registration.

The proposal now is to insert rule 27A in order to call for information from a dealer in order to enable a Sales Tax Officer to issue a notice in Form XIV. This is not warranted by the provisions of the Act. Rule 42 read with section 15 of the Act is sufficient for calling the information which the Collector of Sales Tax may require from a dealer in order to ascertain whether he is liable to pay a tax under the Act. The same information will enable him to ascertain for what period he was liable to pay the tax. Rule 27A has therefore been deleted.

J.R.Dhurandhar,  
12/9.

13091 Additional Secretary to Government.  
dated 4th 13th September 1950.  
U.T. to P.D. No. 12000